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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/612,270 | 07/03/2003 | Juergen Koessler | K201 0010 | 4086 |

720 7590 03/02/2005

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| EXAMINER |
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BOLES, DEREK

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| ART UNIT | PAPER NUMBER |
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3749

DATE MAILED: 03/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/612,270 | KOESSLER, JUERGEN | |
| | Examiner | Art Unit | |
| | Derek S. Boles | 3749 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) 37-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) 5,7,10-12,26, 31,34 and 35 is/are allowed.
- 6) ☒ Claim(s) 1-4,6,8,9,13-30,32,33,36 and 42-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 17-23, 25, 26, 36, 42, 46 and 47 are rejected under 35 U.S.C. 102(b) as being anticipated by Marcello et al. (5,383,816). See col. 4, lines 5-39, fig. 1, elements **30**, **32** and **52**.

Regarding claims 17 and 36, see **36**. Regarding claim 18, see **32**. Regarding claim 20, see **44**.

Regarding claim 23, see **48**.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim(s) 2-4, 6, 8, 9, 27-30, 32, 33 and 43-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marcello et al. in view of Riesner (2,052,315). Marcello et al. discloses all of the limitations of the claim(s) except for a bottom drainage flange which projects outwardly and downwardly from beneath the vent aperture for conveying moisture on a surface thereof and an outermost edge of the bottom drainage flange projects outwardly past the outermost one of the one or more external building surface layers. Riesner discloses the presence of a bottom drainage flange which projects outwardly and downwardly from beneath

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the vent aperture for conveying moisture on a surface thereof and an outermost edge of the bottom drainage flange projects outwardly past the outermost one of the one or more external building surface layers. See fig. 1, **30** and **50**. Hence, one skilled in the art would find it obvious to modify the system of Marcello et al. to include the bottom drainage flange which projects outwardly and downwardly from beneath the vent aperture for conveying moisture on a surface thereof and an outermost edge of the bottom drainage flange projects outwardly past the outermost one of the one or more external building surface layers of Riesner for the purpose of mold prevention. Regarding claims 4, 6 and 8, see **29**.

Claim(s) 13 rejected under 35 U.S.C. 103(a) as being unpatentable over Marcello et al. in view of Miller (3,842,722). Marcello et al. discloses all of the limitations of the claim(s) except for one or more releasable fasteners for removably holding the vent cover to the base member. Miller discloses the presence of a one or more releasable fasteners for removably holding the vent cover to the base member. See **16**. Hence, one skilled in the art would find it obvious to modify the system of Marcello et al. to include the one or more releasable fasteners for removably holding the vent cover to the base member of Miller for the purpose of cleaning capabilities.

Regarding claims 14 and 24, Marcello et al. in view of Miller discloses all of the limitations of the claim except for one of the one or more releasable fasteners comprises a snap together connection and a damper member which is pivotally coupled to the vent cover. However, since the applicant has failed to establish any criticality or synergistic results which are derived from the recited configurations, these limitations are considered a matter of obvious design choice. Thus, the applicant's design configurations would have been an obvious

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improvement to one of ordinary skill in the art with regard to the apparatus disclosed in Marcello et al. in view of Miller.

Claim(s) 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marcello et al. in view of Riesner and in further view of Schneider. Marcello et al. in view of Riesner discloses all of the limitations of the claim(s) except for the vent cover comprises an apertured grille which extends inwardly from an outer edge of the hood member. Schneider discloses the presence of an apertured grille which extends inwardly from an outer edge of the hood member. See 15. Hence, one skilled in the art would find it obvious to modify the system of Marcello et al. in view of Riesner to include a an apertured grille which extends inwardly from an outer edge of the hood member of Schneider for the purpose of debris prevention. Regarding claim 16, see 20.

Response to Arguments

Applicant's arguments filed 1/6/05 have been fully considered but they are not persuasive. Applicant states there is no flange that extends between surface layers. However as cited in col. 4, line 9 of Marcello et al. the main body portion is integral with inlet portion 36 and col. 4, lines 23 and 24 states that the flange 52 extends radially from body portion 30, therefore the office concludes that this is one piece that extends between wall surface layers. Applicant further states that Reisner fails to disclose a bottom drainage flange that projects outwardly from the mounting flange past an outermost building surface layer. The office maintain that element 30 of Reisner is a bottom drainage flange that projects outwardly from a mounting flange past an outermost building surface layer.

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Allowable Subject Matter

Claims 5, 7, 10-12, 31, 34 and 35 are allowed.

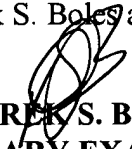
Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The provided references are representative of the state of the art that is applicable to the applicant's invention. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derek S. Boles at (571) 272-4872.

D.S.B.


DEREK S. BOLES
PRIMARY EXAMINER
GROUP 3700

2/27/05